

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

M.F. LONGNECKER, JR., M.D.	§	
	§	
v.	§	CAUSE NO. 1:07CV1217 LG-RHW
	§	
THUNDERFLOWER, L.L.C, ET AL.	§	DEFENDANTS

**MEMORANDUM OPINION AND ORDER TO REMAND CASE
TO THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI**

THIS MATTER COMES BEFORE THE COURT upon the Plaintiff's Motion to Remand [18], filed December 20, 2007. There has been no response filed by any of the Defendants. After due consideration of the motion, pleadings, and the relevant legal authorities, the Court finds that it lacks jurisdiction of this case. Accordingly, it will be remanded to the Circuit Court of Harrison County, Mississippi.

DISCUSSION

Plaintiff Longnecker filed this lawsuit in Harrison County Circuit Court to obtain payment on a debt allegedly owed by the Defendants. Soon after being served with process, Defendants Thunderflower, LLC, Chisholm Properties of Atlanta, LLC and CPMG, LLC filed a Notice of Removal to this Court. Plaintiff argues that the Notice of Removal is procedurally defective because only three of the five named and properly served Defendants joined in the removal.

The Defendants' Notice of Removal cites to the general removal statute, 28 U.S.C. § 1441, as authority for removal. Fifth Circuit precedent interpreting § 1441 is clear that if there is more than one defendant, then the defendants must act collectively to remove the case. *Doe v. Kerwood*, 969 F.2d 165, 167 (5th Cir. 1992). It is apparent from the record that Defendants have

not acted collectively in removing this case, nor have they filed any response in opposition to Plaintiff's motion to remand. As a result, the Notice of Removal is procedurally defective under 28 U.S.C. § 1441. The Court therefore lacks jurisdiction of this case, and it will be remanded to the state court from which it originated.

IT IS THEREFORE ORDERED AND ADJUDGED that the above styled and numbered cause should be, and is hereby **REMANDED TO THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI** pursuant to 28 U.S.C. § 1447(c).

IT IS FURTHER ORDERED AND ADJUDGED that a certified copy of this order of remand shall be immediately mailed by the Clerk to the clerk of the state court pursuant to 28 U.S.C. 1447(c).

SO ORDERED AND ADJUDGED this the 11th day of February, 2008.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE